

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

John D. West, on Behalf of Himself
and All Other Persons Similarly Situated,

Plaintiffs,

v.

AK Steel Corporation (Formerly ARMCO Inc.)
Retirement Accumulation Pension Plan, a part of
the AK Steel Corporation (Formerly ARMCO
Inc.) Noncontributory Pension Plan, and

AK Steel Corporation Benefit Plans
Administrative Committee,

Defendants

Case No.: C-1-02-0001

Judge: Hon. Sandra S. Beckwith

Magistrate Judge: Timothy S. Black

**PARTIES' JOINT RESPONSE TO COURT'S REQUEST
FOR DRAFT NOTICE TO 92 INDIVIDUALS WHO
EXECUTED RELEASES**

This Court's Order of July 25, 2005 decided that 92 individuals who executed general releases of AK Steel and related entities in exchange for severance benefits must be excluded from the class, and directed the parties to submit to the Court a draft of a notice informing these individuals of that fact. The Court also provided guidelines for what should be included in the notice. Pursuant to the guidelines provided in the Order, the parties respectfully submit the draft form of notice attached hereto, without prejudice to their respective positions in this litigation or on appeal.

Respectfully submitted,

s/ Thomas R. Theado
Plaintiffs' Trial Attorney and Class Counsel
Thomas R. Theado (0013937)
GARY, NAEGELE & THEADO, LLC
446 Broadway Avenue
Lorain, Ohio 44052-1797
Ph: 440-244-4809
Fx: 440-244-3462

Of Counsel:

Robert D. Gary (0019610)
Jori Bloom Naegele (0019602)
Thomas A. Downie (0033119)
GARY, NAEGELE & THEADO, LLC
446 Broadway Avenue
Lorain, Ohio 44052-1797
Ph: 440-244-4809
Fx: 440-244-3462

Allen C. Engerman
Law Offices of Allen C. Engerman, P.C.
666 Dundee Road—# 1200
Northbrook, Illinois 60062
Ph: 847-564-5555
Fx: 847-564-4944

Counsel for Plaintiffs

s/George E. Yund
George E. Yund (0017714)
Frost Brown Todd LLC
2200 PNC Center
201 East Fifth Street
Cincinnati, Ohio 45202-4182
(513) 651-6824
(513) 651-6981 (fax)

Trial Attorney for Defendants

Robert D. Wick
Covington & Burling
1201 Pennsylvania Avenue
Washington, DC 20004-2401
(202) 662-6000

Attorney for Defendants

August 24, 2005

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

John D. West, on Behalf of Himself and)	
All Other Persons Similarly Situated,)	
Plaintiffs,)	
)	Case No. 1:02-CV-0001
v.)	
)	
AK Steel Corp. Retirement Accumulation)	District Judge Sandra S. Beckwith
Pension Plan)	
– and –)	Magistrate Judge Timothy S. Black
AK Steel Corporation Benefit Plans)	
Administrative Committee,)	
Defendants.)	

**[PROPOSED] NOTICE OF THE COURT'S RULING
EXCLUDING YOU FROM THIS CLASS ACTION**

**PLEASE READ THIS NOTICE CAREFULLY.
YOUR RIGHTS ARE AFFECTED BY THIS NOTICE.**

By order of the U.S. District Court for the Southern District of Ohio, Western Division (“the Court”), Honorable Sandra S. Beckwith presiding, you were previously notified of the pendency of this class action captioned *John D. West, et al. v. AK Steel Corp. Retirement Accumulation Pension Plan, et al.* (“the West case” or “this class action”). The Court has now determined that it must alter the definition of the Class to exclude you from the Class. The Court has further determined that this additional Notice

be issued to you to explain the basis for the Court's decision. Please read and carefully consider this Notice as well as the copy of the Court's earlier Notice which is attached.

The Court's earlier Notice informed you that the Court had certified the *West* case as a class action, and had defined the Class as follows:

All vested participants in the AK Steel Corporation (formerly Armco Inc.) Retirement Accumulation Pension Plan who retired or were terminated from employment on or after January 1, 1995 and who received their pension benefits under the Plan in the lump sum form of payment on or before April 1, 2005.

That earlier Notice also indicated that there were motions pending before the Court, one of which concerned whether the claims of 92 class members, who had signed general releases in exchange for severance benefits at the time of their termination from employment, should be excluded from this class action.

You are receiving this Notice because you are one of the 92 class members who signed a release in exchange for severance benefits at the time of your termination from employment.

On July 25, 2005, the Court issued a decision announcing that the 92 individuals who executed releases must be excluded from this class action. In reaching that decision, the Court reviewed the releases signed by the 92 individuals and concluded that, in order to determine whether the releases do or do not bar the claims asserted in the *West* case, further investigation of the facts and circumstances relating to the execution of each individual release is needed. Because the validity of these releases must be considered separately for each individual, the Court further determined that it would be inappropriate

to consider these claims on a class action basis. Accordingly, you are hereby NOTIFIED that you have been EXCLUDED FROM THIS CLASS ACTION.

Although you are not a part of this class action, you do have the right to pursue a claim for additional retirement benefits – the claim that is asserted in the *West* case – on an individual basis in a separate lawsuit. The Court in the *West* case has already ruled that the manner in which Class Members’ lump sum distributions were calculated under the AK Steel Retirement Accumulation Pension Plan violated the Employee Retirement Income Security Act (ERISA) and the Internal Revenue Code. However, if you were to bring a separate lawsuit in your own behalf, the defendants may raise your release as a defense to your claim for additional retirement benefits.

Actuarial consultants retained by the parties have estimated that, if you were to prevail on an individual claim, you would likely be entitled to additional retirement benefits that have a present value ranging from ____ to _____. These figures do not include pre-judgment interest, which may or may not be awarded if you were to prevail in your own individual lawsuit, and do not account for any attorneys’ fees or costs that you may incur if you were to bring a separate lawsuit.

The Court encourages you to promptly seek legal advice from an attorney of your choice to help you evaluate these matters. The attorneys representing the Class in the *West* case have informed the Court that they will make themselves available to confer with you on these matters. If you wish to consult these attorneys, or if you have any questions regarding the matters addressed in this Notice, you may contact:

Thomas R. Theado
Gary, Naegele & Theado, LLC
446 Broadway
Lorain, Ohio 44052-1797
(440) 244-4809